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In re Application of
LEWIS
Application No. 09/589,573
Filed: June 7, 2000
For: **METHOD AND SYSTEM FOR
PROVIDING EDGE ANTIALIASING**

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:
:DECISION ON PETITION TO
:WITHDRAW HOLDING OF
:ABANDONMENT
:

This is a decision on the petition filed May 27, 2003, based on M.P.E.P. 711.03(c)(II), and pursuant to 37 C.F.R. § 1.181(a), to withdraw the holding of abandonment.

This application became abandoned for failure to timely respond to the Non-final Office action mailed October 21, 2002. No Notice of Abandonment was mailed.

Petitioner alleges that the Non-final Office action mailed October 21, 2002 was not received.

Based on M.P.E.P. § 711.03(c) [*See also Notice entitled Withdrawing the Holding of Abandonment When Office Actions Are Not received, 1156 O.G. 53 (November 16, 1993)*], in absence of any irregularity in the mailing of an Office Action, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include:

- (a) a statement from the practitioner stating that the Office communication was not received by the practitioner;
- (b) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and,
- (c) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

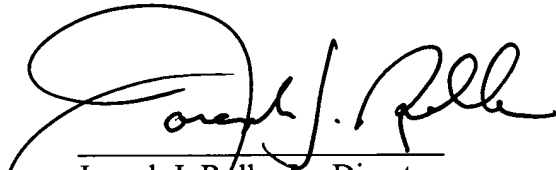
A review of the records indicate that the Non-Final Office Action was properly mailed to the practitioner of record at the correspondence address at the time of mailing. Thus, there was no irregularity in mailing the office action on the part of the U.S. Patent and Trademark Office.

The allegation of non-receipt is supported by a statement by the petitioner attesting that the Office Action was not received at the correspondence address of record, and that a search of the contents of the file jacket and docket records reveal no evidence of receipt. Copies of the docket records have also been included to corroborate petitioner's claim.

The showing offered complies with the requirements of a successful petition to withdraw the holding of abandonment due to non-receipt of the Non-Final Office Action as set forth above. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Accordingly, the petition is **GRANTED**.

Due to the time lapse from the previous Office action and this decision, the file will be forwarded to the examiner for updating the search and the Office action as appropriate. The time period for response will be set to run from the mailing date of the new action.



Joseph J. Rolla, Jr., Director
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Communications